

# Penn State Journal of Law & International Affairs

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Volume 1 | Issue 1

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April 2012

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ISSN: 2168-7951

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### Recommended Citation

Meghan A. McClincy, *A Blue Thai Affair: The Blue Diamond Affair's Illustration of the Royal Thai Police Force's Standards of Corruption*, 1 PENN. ST. J.L. & INT'L AFF. 182 (2012).  
Available at: <https://elibrary.law.psu.edu/jlia/vol1/iss1/9>

*The Penn State Journal of Law & International Affairs* is a joint publication of Penn State's School of Law and School of International Affairs.

Penn State  
Journal of Law & International Affairs

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2012

VOLUME 1 NO. 1

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**A BLUE THAI AFFAIR:  
THE BLUE DIAMOND AFFAIR'S ILLUSTRATION  
OF THE ROYAL THAI POLICE FORCE'S  
STANDARDS OF CORRUPTION**

*Meghan A. McClincy* \*

*The Blue Diamond Affair, an international jewelry heist, captivated the world's attention because of its unresolved murders, its implication of law enforcement and public officials from two divergent countries, and the resulting diplomatic tensions between Thailand and Saudi Arabia. The crime also demonstrates the inadequacy of the policies that governed the conduct of the Royal Thai Police Force and how the policies allowed, if not perpetuated corruption within the Royal Thai Police Force. This comment provides an overview of the Blue Diamond Affair, analyzes the Thai criminal statutes and policies, and explores possible remedies for police corruption in Thailand and the application of such remedies more broadly.*

INTRODUCTION

With the right casting and a sweeping musical score, "The Blue Diamond Affair" could become Hollywood's next blockbuster hit. The spoiler alert would read: "Theft of Saudi heirlooms remains one of Thailand's biggest unsolved mysteries, followed by a bloody trail of destruction implicating some of Thailand's top police generals."<sup>1</sup> This great, international "whodunit" occurred more than two decades ago and yet many question remain, most importantly, how the Royal Thai

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<sup>1</sup> *Thai PM Meets Saudi Envoy to Settle 20-year Jewellery Theft*, WORLD BULLETIN, Jan. 11, 2010, [http://www.worldbulletin.net/news\\_detail.php?id=52473](http://www.worldbulletin.net/news_detail.php?id=52473) [hereinafter *Thai PM Meets Saudi Envoy*].

Police Force remained unscathed.<sup>2</sup> In Thailand, the most sensational crimes frequently involve the Thai police as prime suspects.<sup>3</sup>

The comment begins with an overview of "The Blue Diamond Affair." Here, the background of the heist and subsequent unsolved murders will be described.<sup>4</sup> The comment then addresses the crime's international ramifications including: the delegated *chargé d'affaires*;<sup>5</sup> a damaged diplomatic relationship between Thailand and Saudi Arabia; and the detrimental effects the failing diplomacy between Thailand and Saudi Arabia has had on Thai citizens,<sup>6</sup> including the adverse effects on Thai workers and business industries.<sup>7</sup>

The second part of the comment analyzes Thai police policies and statutes, which allow, if not perpetuate, corruption within the Thai police force.<sup>8</sup> Specifically, this section will demonstrate how Thai police officials interpret statutes to promote and insulate corrupt agents within the police force and protect unethical practices from outside probes. The section also explains how Thai police craft statutes, which on their face advance crooked policies.

The comment's final section will explore how corruption within the Thai police force can be remedied.<sup>9</sup> Measures of reform include training and education by international organizations such as the International Law Enforcement Academy in Bangkok, Thailand; solidarity with and political influence from the Thai citizen-ran government organization, the Public Anti-Corruption Commission; and the impact and social utility of the private sector, including the Thai Institute of Directors.

## I. HISTORICAL BACKGROUND OF THE BLUE DIAMOND AFFAIR

### A. *The Theft of the Jewelry*

The mystery begins in 1989 when Kriangkrai Techamong, a Thai gardener and janitor working in one of the palaces of Saudi Prince Faisal bin Fahd, crawled into a bedroom and stole some 200 pounds of jewelry.<sup>10</sup> The stash of precious

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<sup>2</sup> See *id.*

<sup>3</sup> See *The Thai Police; A Law Unto Themselves*, ECONOMIST, Apr. 19, 2008, <http://www.economist.com/node/11058580> [hereinafter *Law Unto Themselves*].

<sup>4</sup> See *infra* pp. 2-8.

<sup>5</sup> See BLACK'S LAW DICTIONARY 265 (9th ed. 2009). A *chargé d'affaire* is a diplomat who is second in command in a diplomatic mission.

<sup>6</sup> See *Thai PM Meets Saudi Envoy*, *supra* note 1.

<sup>7</sup> See *Saudi Envoy Appreciates Thai Court Efforts in Missing Businessman Case*, BBC WORLDWIDE MONITORING, Jan. 13, 2010 [hereinafter *Saudi Envoy*] (explaining the importance Thai workers have on Saudi industry).

<sup>8</sup> See *infra* pp. 8-20.

<sup>9</sup> See *infra* pp. 19-27.

<sup>10</sup> Andrew Marshall, *The Curse of the Blue Diamond*, REUTERS BLOG (Sept. 22, 2010), <http://blogs.reuters.com/andrew-marshall/2010/09/22/the-curse-of-the-blue-diamond/>.

jewels and gems included a famous and rare blue diamond.<sup>11</sup> Kriangkrai stuffed the loot, including the precious blue diamond,<sup>12</sup> into a vacuum cleaner bag<sup>13</sup> and shipped them back to Thailand via DHL. He fled Saudi Arabia soon thereafter.<sup>14</sup>

Upon arriving in Lampang, a province in Northern Thailand, Kriangkrai had a difficult time disposing of the stolen goods.<sup>15</sup> Consequently, he sold the individual pieces at incredibly low prices.<sup>16</sup> Santhi Sithanakan, a local jeweler, caught word of Kriangkrai's collection<sup>17</sup> and purchased the bulk of the gems at a fraction of their value.<sup>18</sup>

By this time, Saudi royals realized they had been robbed and notified Thailand authorities about Kriangkrai.<sup>19</sup> While it did not take long for Thai officials to arrest the thief, Kriangkrai had already sold the jewels to Santhi.<sup>20</sup> Then, through Kriangkrai, a team of police led by Lieutenant-General Chalor Kerdthes (Chalor) tracked down Santhi and quickly announced recovery of the jewels.<sup>21</sup> Kriangkrai was sentenced to seven years in jail.<sup>22</sup> Despite the arrest and proclaimed recovery of the jewels, Saudi Arabia dispatched three diplomats,<sup>23</sup> Abdullah Al-Besri, Fahad AZ Albahli, Ahmed A Alsaif, and a private citizen and businessman trusted by the royal family, Mohammad al-Ruwail, to Bangkok to investigate the theft.<sup>24</sup>

### B. *The Subsequent Murders*

On February 1, 1990, one of the Saudi diplomats, Adbullah Al-Besri was killed in Bangkok.<sup>25</sup> Ten minutes later, the two other Saudi diplomats – Fahad AZ Albahli and Ahmed A Alsaif – were assassinated in Bangkok.<sup>26</sup> During the same

<sup>11</sup> See *Treasures of the World: Hope Diamond*, PBS.ORG, [http://www.pbs.org/treasuresoftheworld/a\\_nav/hope\\_nav/hnav\\_level\\_2/level2\\_pitch\\_science\\_hopfrm.html](http://www.pbs.org/treasuresoftheworld/a_nav/hope_nav/hnav_level_2/level2_pitch_science_hopfrm.html) (last visited Oct. 3, 2010) (explaining the rarity and high value of blue diamonds).

<sup>12</sup> See Christopher Shay, *Thailand's Blue Diamond Heist: Still a Sore Point*, TIME, Mar. 7, 2010, <http://www.time.com/time/world/article/0,8599,1969920,00.html>. Thailand's Department of Special Investigation (DSI) cannot confirm whether the Saudi princess' rare blue diamond exists.

<sup>13</sup> See *id.* The former Saudi chargé d'affaires told the Washington Post that the Thai worker stuffed "rubies the size of chicken eggs" in the vacuum cleaner bag. *Id.*

<sup>14</sup> See Marshall, *supra* note 10.

<sup>15</sup> See *id.*

<sup>16</sup> See *id.* Kriangkrai allegedly sold a few of the priceless jewels for thirty dollars.

<sup>17</sup> See Terry McCarthy, *Saudi Gems Theft Leaves Deadly Trail in Thailand*, THE INDEPENDENT (LONDON), Sept. 25, 1994, available at <http://www.independent.co.uk/news/world/saudi-gems-theft-leaves-deadly-trail-in-thailand-1450865.html>. Rumors circulated that Kriangkrai's loot included diamond-studded watches, necklaces heavy with jewels, and one fifty-carat diamond.

<sup>18</sup> See Marshall, *supra* note 10.

<sup>19</sup> See Shay, *supra* note 12.

<sup>20</sup> See *id.*

<sup>21</sup> See Marshall, *supra* note 10.

<sup>22</sup> See Shay, *supra* note 12. Kriangkrai's sentence was later reduced to three years because he confessed to the crime.

<sup>23</sup> See *Timeline of the Blue Diamond Affair*, JOTMAN.COM (Oct. 1, 2010), <http://jotman.blogspot.com/2009/08/timeline-of-blue-diamond-affair.html> [hereinafter *Timeline*].

<sup>24</sup> See Marshall, *supra* note 10.

<sup>25</sup> See *Timeline*, *supra* note 23.

<sup>26</sup> See *id.*

month, Ruwaili, the Saudi businessman, disappeared, presumably murdered.<sup>27</sup> The four murders remain unsolved.<sup>28</sup>

Saudis suspected that the Thai police were involved in the murders of the men and, in response, Saudi Arabia downgraded diplomatic relations with Thailand and assigned a terse chargé d'affaires, Mohammed Said Khoja, to Bangkok to investigate the murders and the theft.<sup>29</sup> Khoja concluded that all four Saudis had discovered important information about what had happened to the jewels and had been murdered<sup>30</sup> by Thai government officials to silence them.<sup>31</sup>

A month after the four murders, Chalor announced that the police had discovered the remaining jewels and flew with a delegation to Saudi Arabia to return the jewels to Prince Faisal.<sup>32</sup> Chalor and his police team returned the jewels to Saudi Arabia in "a public ceremony, designed to show how efficiently they had done their job, and to strengthen the cordial relations between Thailand and the Gulf state."<sup>33</sup> Despite the grand public display of rapprochement, Saudi officials soon discovered that the returned gems were fake,<sup>34</sup> replaced by paste replicas and that the blue diamond was still missing.<sup>35</sup>

Under pressure from the Saudis, the Thai police force continued to investigate the unsolved theft and subsequent murders.<sup>36</sup> In 1994, jeweler Santhi was kidnapped and tortured upon the orders of Chalor.<sup>37</sup> Not long afterwards, the bodies of Santhi's wife and fourteen-year-old son were found in their wrecked vehicle on a highway just outside Bangkok.<sup>38</sup> Thai police forensic officers declared the deaths to be the result of an automobile accident; however, later autopsies demonstrated the victims died from blows to the head,<sup>39</sup> suggesting the deaths were staged and that the police forensic officers lied.<sup>40</sup> The Washington Post quoted the former Saudi chargé d'affaires, "[t]he forensic commander thinks we're stupid. This was not an accident."<sup>41</sup>

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<sup>27</sup> See *id.*

<sup>28</sup> See Marshall, *supra* note 10.

<sup>29</sup> See *Timeline*, *supra* note 23.

<sup>30</sup> See Shay, *supra* note 12. The United States non-governmental organization, Foundation for Democracy in Iran, claimed in a 1996 report that the 1990 murders of the Saudi diplomats were the result of Iranian hit squads. The DSI, which took over the case from the Thai police in 2004, said the alleged Iranian connection to the murders was a meritless rumor.

<sup>31</sup> See Marshall, *supra* note 10.

<sup>32</sup> See Shay, *supra* note 12.

<sup>33</sup> McCarthy, *supra* note 17.

<sup>34</sup> See Shay, *supra* note 12. Local Thai press reported rumors of circulating photos of bureaucrats' wives wearing new diamond necklaces at a Thai charity event. Allegedly, the necklaces were uncannily similar to the stolen pieces.

<sup>35</sup> See *id.*

<sup>36</sup> See *id.*

<sup>37</sup> See Marshall, *supra* note 10.

<sup>38</sup> See *id.*

<sup>39</sup> See *id.*

<sup>40</sup> See *id.*

<sup>41</sup> Shay, *supra* note 12.

A few months later, Chalor was arrested by the Thai police and charged with ordering the murders of the jeweler's wife and son.<sup>42</sup> Chalor was later convicted of receiving the stolen gems. Although the Thai Supreme Court upheld his conviction and death sentence in October 2009,<sup>43</sup> Chalor continues to maintain his innocence on the theft and murder charges.<sup>44</sup>

Despite Chalor's conviction and criminal sentence, Thai-Saudi relations remain strained. As the twenty-year statute of limitations that applies to Mohammed al-Ruwaili's murder nears its end, there appears to be progress towards solving the case. In 2000, the investigation into the theft and subsequent murders was reopened under the lead of the Thai Department of Special Investigations (DSI). In January 2010, the Office of the Attorney General indicted a senior policeman, Lieutenant-General Somkid Boonthanom, chief of police for Thailand's Region 5, for the murder of Saudi businessman Ruwaili.<sup>45</sup> Four other policemen have been indicted and all five are awaiting trial.<sup>46</sup> However, in September 2010, despite his indictment, Somkid was promoted to the post of assistant national police chief.<sup>47</sup> The promotion of an indicted murderer caused disbelief and frustration throughout the Saudi government.<sup>48</sup>

### C. *The Damaged Diplomatic Relationship and Its Ramifications*

Following the unsettled theft of the royal jewels and unsolved murders of their fellow statesmen, Saudi Arabia downgraded its diplomatic relations with Thailand.<sup>49</sup> Consequently, Saudi Arabia banned the recruitment of Thai workers, prohibited its citizens from traveling to Thailand, stopped all its national carrier's flights to Bangkok, and ordered its businesspersons to replace Thai employees with other workers.<sup>50</sup> Inevitably, these restrictions caused a sharp drop in the number of Thai workers<sup>51</sup> in Saudi Arabia; specifically, the number of Thai workers dropped from 200,000 in 1989 to merely 10,000 in 2011.<sup>52</sup> The Saudis intended the reduced diplomatic presence in Bangkok to be a sign of protest until justice was served with

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<sup>42</sup> See *id.* During the trial it emerged that four men had confessed to carrying out the murders on the orders of police, and that police had tried to extort a \$2.5 million ransom from the jeweler.

<sup>43</sup> See *id.*

<sup>44</sup> See *id.* Chalor told the *Times* of London that, "Not all people in jail are guilty." *Id.* However, he remains in prison, where he has put together a band and recorded a Thai cover of Elvis Presley's "Jailhouse Rock." See *id.*

<sup>45</sup> See *Deputy PM Suthep's Letter to Ashri*, BANGKOK POST, Sept. 23, 2010, <http://www.bangkokpost.com/news/politics/197716/deputy-pm-suthep-letter-to-ashri> [hereinafter *Letter*].

<sup>46</sup> See Marshall, *supra* note 10.

<sup>47</sup> See *id.*

<sup>48</sup> See *id.* The promotion contention will be further explored in the second section.

<sup>49</sup> See *The Missing Pillar in Thai-Gulf Ties*, GULF NEWS, May 4, 2008, available at 2008 WLNR 8303469 (WL).

<sup>50</sup> See *id.*

<sup>51</sup> See *Thai PM Meets Saudi Envoy*, *supra* note 1.

<sup>52</sup> See *id.*

the perpetrators behind bars or at the very least "until their names and their lives were ruined."<sup>53</sup>

Thailand's airline industry has suffered because of the weak diplomatic ties between the two nations.<sup>54</sup> In September 2009, Thai Airways International executives attempted to negotiate a plan for resuming non-stop flights between Bangkok and Jeddah, Saudi Arabia.<sup>55</sup> However, the airline's efforts were in vain; the Riyadh's reaction revealed, "unspoken, but clear disapproval" due to continued dissatisfaction with the Thai authorities' response to the unsolved jewelry theft and resulting murders.<sup>56</sup> In spite of the international turmoil between the two countries, Saudi Arabia allows Thai Airways to provide a limited number of flights between the two countries on a chartered basis mainly for pilgrims<sup>57</sup> to Mecca.<sup>58</sup> Nonetheless, Thai Airways left the negotiation realizing it may be better off not trying to re-establish service in spite of the bid's lucrative potential.<sup>59</sup>

Regardless of persisting diplomatic gridlock, the Thai government continued to make efforts to amend relations.<sup>60</sup> In July 2010, a Thai government official, the Democrat Party MP for Phitsanulok and advisor to the House Committee on Labor Affairs, prepared to seek Saudi Arabian King Abdullah's forgiveness for Thailand's failure to solve the cases of the missing jewelry and the murder of Saudi diplomats.<sup>61</sup> The formal apology, signed by the committee and thirteen labor organizations, sought the King's pardon in order to restore diplomatic relations between the two countries.<sup>62</sup> Similarly, in August 2010, the Thai Deputy Ministry of Commerce met with Saudi officials to discuss future economic collaboration at both private and public levels.<sup>63</sup> The Ministry also met with Saudi Arabia's largest rice importers to pen agreements on the purchase of Thai rice.<sup>64</sup>

Even though individual Thai government agencies have made strides in navigating the channels of international clemency and cooperation, the Thai police have continued to thwart any prospects for alliance and amnesty. By examining Thai statutes and police regulations, the comment's next section will demonstrate how

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<sup>53</sup> *Id.*

<sup>54</sup> See *Direct Saudi Flights Elusive*, BANGKOK POST, Sept. 10, 2009, available at A200909092D-1D6E0-GNW (LEXIS) [hereinafter *Direct Saudi Flights*].

<sup>55</sup> See *id.*

<sup>56</sup> *Id.*

<sup>57</sup> See *Saudi Arabia to Issue Hajj Visas for Thai Pilgrims*, NATION (BANGKOK), Sept. 24, 2010, <http://www.asianewsnet.net/home/news.php?id=14528>. Despite recent speculation that Saudi Arabia would deny visas for Thai pilgrim, the Saudi Arabian embassy promised it would issue visas for all 13,000 Thai Muslims planning to go on the Hajj pilgrimage.

<sup>58</sup> See *Direct Saudi Flights*, *supra* note 54.

<sup>59</sup> See *id.*

<sup>60</sup> See *Thailand Steps Up Efforts to Restore Diplomatic Ties With Saudi Arabia*, THAI PRESS REPORTS, July 23, 2010, available at A2010072357-20A4C-GNW (LEXIS).

<sup>61</sup> See *id.*

<sup>62</sup> See *id.*

<sup>63</sup> See *id.*

<sup>64</sup> See *Thailand, Saudi Arabia to Form Joint Business Council*, FNWEB.COM, Aug. 6, 2010, available at A20100806B-20C9A-GNW (LEXIS).

Thailand's police directive promulgates corruption within the Thai police force, making resolution of the theft and subsequent murders unlikely if not impossible.<sup>65</sup>

## II. CORRUPTION AND THE ROYAL THAI POLICE FORCE

The Asian Human Rights Commission (AHRC) declares that all citizens, including state agencies and officials, must be uniformly held accountable under the rule of law, and only then will citizens' rights and dignities be protected.<sup>66</sup> Under a system of law enforcement, as in the United States, citizens' rights and dignities are safeguarded. However, Thailand follows a system of order-enforcement;<sup>67</sup> and under order-enforcement, citizens are not ensured the same liberties and protections.<sup>68</sup> To implement a uniform and effective system of justice, the Thai police must transform from a system of order-enforcement to a system of law enforcement.<sup>69</sup>

Under order-enforcement, the idea of burden of proof is irrelevant, a standard procedure for criminal investigations is inessential, and unequal treatment and due process and equal treatment are fictional concepts.<sup>70</sup> Antithetically, law enforcement requires thorough criminal investigations, submission of evidence, and consistent protection of civil liberties.<sup>71</sup> Under its current standards of operation, Thailand's police force preserves a system of order-enforcement by allowing the practice of torture, implicating witnesses, inhibiting the role of prosecution, and promoting corrupt state agents.

### A. Practice of Torture

Currently, Thailand has no specific legal provision penalizing torture.<sup>72</sup> Despite recent talks of negotiation,<sup>73</sup> Thailand has yet to ratify the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>74</sup> A common justification of torture is that it is the cheapest method of criminal investigation.<sup>75</sup> Under this "might equals right"<sup>76</sup> principle, the Thai police

<sup>65</sup> See *infra* pp. 9-20.

<sup>66</sup> See *Asian Human Rights Commission, Rule of Law and Human Rights in Asia*, (2006), at 7, [http://www.ahrchk.net/pub/pdf/RoL\\_HRinAsia.pdf](http://www.ahrchk.net/pub/pdf/RoL_HRinAsia.pdf) [hereinafter *Human Rights in Asia*].

<sup>67</sup> See *id.*

<sup>68</sup> See *id.*

<sup>69</sup> See *id.* at 50.

<sup>70</sup> See *Human Rights in Asia*, *supra* note 66, at 66.

<sup>71</sup> See *id.*

<sup>72</sup> See *id.* at 27.

<sup>73</sup> See ASSOCIATION FOR THE PREVENTION OF TORTURE, THAILAND: *Implementing the UN Convention Against Torture*, (May 13, 2009), [http://www.ap.t.ch/index.php?option=com\\_k2&view=item&id=874:thailand-implementing-the-un-convention-against-torture&Itemid=227&lang=en](http://www.ap.t.ch/index.php?option=com_k2&view=item&id=874:thailand-implementing-the-un-convention-against-torture&Itemid=227&lang=en). The Association for the Prevention of Torture (APT) is a non-governmental organization that seeks to open all places of detention to international and national scrutiny. See *id.* In May 2009, the APT organized training workshops in Bangkok in aims to garner support and action for the implementation of the U.N. Convention Against Torture in Thailand. See *id.* The workshop constructed a three-year plan of action for the implementation of the U.N. Convention Against Torture. See *id.*

<sup>74</sup> See *Human Rights in Asia*, *supra* note 66 at 27.

<sup>75</sup> See *id.* at 68.



force values physical power over brain power because it is a less costly investigative practice.<sup>77</sup> Along with the fact that policing by coercion is less costly for the Thai police force, it is also promoted by the Thai government.<sup>78</sup> During Thailand's 2003 war on drugs, the Thai government incited police and public officials to organize and endorse murder in the name of ridding the nation of drugs.<sup>79</sup> The police officers were encouraged to unlawfully execute alleged drug dealers through the promise of financial rewards, promotions, and threats of transfers and dismissals.<sup>80</sup> Specifically, then Prime Minister Thaksin Shinawatra, made a series of public statements portraying drug-dealers as sub-humans who deserved to die.<sup>81</sup> In the end, Thailand's war on drugs took 2,500 lives.<sup>82</sup> The events of Thailand's war on drugs demonstrate that those in the government expect the police to be their puppets in achieving their policy demands.

The Thai government demands their police to accomplish the government's goals by any means necessary.<sup>83</sup> Therefore, the complicity of the police seriously undermines acceptable principles of the rule of law and instead approves the practice of torture. Meaning, if the individuals torturing citizens are the same ones who are supposed to protect citizens, chaos and corruption ensues, enabling backdoor murders and mysterious disappearances of criminal defendants, victims, and witnesses.

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<sup>76</sup> Interview with Bryce Miles, International Law Enforcement Academy (ILEA) Deputy Director (Oct. 16, 2010) [hereinafter *Interview*]. Mr. Miles is currently assigned in Bangkok, Thailand where he has served as a Diplomatic Security Special Agent. *See id.* He has a B.A. in Political Science from Louisiana State University, 1991, and an M.S. in Strategic Intelligence, National Defense Intelligence College, 2008. *See id.* It should also be noted that Mr. Miles conferred with outside sources, including a senior Thai national United States Embassy employee, a retired Thai police general, and a Thai police colonel to provide answers to interview questions. *See id.* Regarding the application process to become a Royal Thai policeman, Mr. Miles said that, "it's not terribly difficult to be selected as a regular Thai policeman." *Id.* He equated the level of difficulty to enlisting in the United States Army. *See id.*

<sup>77</sup> *See id.* Mr. Miles explained that police training in Thailand is not up to United States standards for two reasons: 1) the culture does not encourage active student participation or resourcefulness; and 2) the Thai police force lacks the required budget and assets to train the "hard skills," needed for complex investigations and police raids. *Id.*

<sup>78</sup> *See* ASIAN LEGAL RESOURCE CENTRE, *Thailand: "Unsubstantiated" Police Abuse, Impunity and Human Rights Charades*, (Sept. 3, 2009), [http://www.alrc.net/doc/mainfile.php/alrc\\_st2009/577](http://www.alrc.net/doc/mainfile.php/alrc_st2009/577) [hereinafter *Unsubstantiated*].

<sup>79</sup> *See Human Rights in Asia*, *supra* note 66, at 55. Through a series of memos, official orders, and public statements, the Thai police were directed to organize and carry out the ordered murders.

<sup>80</sup> *See id.* at 55.

<sup>81</sup> *See id.* at 56-57. The Prime Minister said, "We have to shoot to kill and confiscate their [drug dealers] assets as well, so their sinful inheritance will not be passed on." *Id.* He also stated, "Don't be moved by the high death figures. We must be adamant and finish this war . . . When you go to war and some of your enemies die, you cannot become soft-hearted, otherwise the surviving enemy will return to kill you." *Id.*

<sup>82</sup> *See Unsubstantiated*, *supra* note 72.

<sup>83</sup> *See Human Rights in Asia*, *supra* note 66, at 57.

### B. Lack of Witness Protection

Though Thailand has witness-protection legislation,<sup>84</sup> the existence of such legislation does not necessarily translate into its enforcement or protection for citizens.<sup>85</sup> Thailand's witness protection legislation, Witness Protection Act B.E. 2546 (2003), offers little more than a thumbnail sketch of the necessities and practices for witness protection.<sup>86</sup> Specifically, Section 244 affirms that in a criminal case a witness has "the right to protection, proper treatment, necessary and appropriate remuneration from the State as provided by law."<sup>87</sup> However, the Act does not outline, in detail, any of the practical steps or issues arising from witness protection.<sup>88</sup> Additionally, the Act fails to consider what measures should be taken to ensure protection or what standard should be used to provide protection.<sup>89</sup> The failure of specificity leaves the door open for disparities in methods of dealing with witness protection.<sup>90</sup>

Moreover, the Act's ambiguous definition of "witness,"<sup>91</sup> serves as a catalyst for inconsistency.<sup>92</sup> Specifically, the exclusion of "defendants" from the definition of persons who may seek protection is alarming. In Thailand, many defendants fall victim to unlawful treatment, such as forced self-incrimination, doctored evidence, and fraudulent record-keeping.<sup>93</sup> Given the Royal Thai Police's infamous reputation for corruption,<sup>94</sup> these potential victims are among the persons in greatest need of protection.<sup>95</sup> Officially, in Section 13,<sup>96</sup> the statute establishes a Witness Protection Office.<sup>97</sup> The Witness Protection Office works in a supervisory capacity with other

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<sup>84</sup> See HUMAN RIGHTS CORRESPONDENCE SCHOOL, *Lesson 2: Case Study of Thailand's Fledgling Witness Protection Programme*, <http://www.hrschool.org/doc/mainfile.php/lesson47/184/> (last visited Feb. 3, 2011) [hereinafter *Lesson 2*]. This lesson analyzes Thailand's Office of Witness Protection as a case study, based on the report, *Protecting Witnesses or Perverting Justice?*, by the Asian Legal Resource Centre, June 2006. See *id.*

<sup>85</sup> See *id.*

<sup>86</sup> See *id.*

<sup>87</sup> *Id.*

<sup>88</sup> See *id.*

<sup>89</sup> See *Lesson 2*, *supra* note 84.

<sup>90</sup> See *id.*

<sup>91</sup> See *id.* The Act defines "witness" as "a person who commits himself/herself to be present at, or testify, or give evidence to a competent official for investigation, a criminal interrogation, a court for criminal proceedings, and includes an expert but not a defendant who himself/herself is a witness." [Unofficial translation]. *Id.*

<sup>92</sup> See *id.*

<sup>93</sup> See *id.* While the Act was enacted to prevent intimidation and threats against witnesses, the Act does not specifically address or define these issues. See *id.* Furthermore, Sections 21 and 23 establish light penalties for revealing the identity of witnesses, intimidating them, or causing harm or death; however, "harm" is never qualified. *Id.*

<sup>94</sup> See *A Law Unto Themselves*, *supra* note 3.

<sup>95</sup> See *Lesson 2*, *supra* note 84.

<sup>96</sup> See *id.* Section 5 states, "the Prime Minister, Ministers of Defence, Interior and Justice shall be in charge of enforcement of this Act and, in relation to their respective Ministries, shall have the power to appoint competent officials issue Ministerial Regulations and notifications for the purposes of the Implementation of this Act." *Id.* The Act gives no direct guidance on how these agencies are to cooperate. See *id.*

<sup>97</sup> See *id.*

governmental agencies, such as the Thai police.<sup>98</sup> In principle, the Act ensures protection for witnesses and victims; in practice, the protection is to be provided by the police, a group known for . . .<sup>99</sup>

The Act does force the police to provide protection; rather, it is left to their discretion to accept or reject such requests.<sup>100</sup> Once a case is accepted, the police obtain complete control; the police determine if protection is to be offered; the extent of protection to be provided, and the duration of the protection.<sup>101</sup> The police monopoly on power, without definitive and administered regulations, undermines the purpose of the statute and consequently endangers the witness.<sup>102</sup> The statute's intended objective is further impaired by the statute's stringent deadlines.<sup>103</sup> Short-term protection may be inadequate in some cases, such as the Blue Diamond Affair, which has taken years to work through the courts.<sup>104</sup> Furthermore, post-trial protection may be paramount to protect the livelihood of a criminal witness or victim.<sup>105</sup> As the statute operates now, it fails to accomplish its stated goal to protect witnesses. Consequently, allegedly innocent individuals, such as Santhi's wife and fourteen year old son, are left unguarded, in jeopardy, and frequently go missing.<sup>106</sup>

### C. *Compromised Role of Prosecutors*

In Thailand, the role of prosecutor has been undermined by the power of high political authorities. In the United States, prosecutors have an active role in criminal proceedings; prosecutors file the criminal charge and remain involved in the investigation of the crime.<sup>107</sup> Moreover, prosecutors thoroughly review the evidence to confirm that evidence is obtained by lawful means, to ensure that the criminal defendants', victims', and witnesses' human dignities and rights are preserved during the investigative process, and to hold responsible and bring to justice those who fail to comply with the two standards listed above.<sup>108</sup>

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<sup>98</sup> *See id.*

<sup>99</sup> *See id.*

<sup>100</sup> *See Lesson 2, supra* note 84.

<sup>101</sup> *See id.*

<sup>102</sup> *See id.*

<sup>103</sup> *See id.* After the witness protection officer contacts the police and the police accept the case, existing regulations provide protection up to twenty-one days. *See id.* Beyond the initial twenty-one days, the commissioner can provide further protection for an additional sixty days. *See id.* For protection beyond eighty-one days, approval from the police commissioner-general is required. *See id.*

<sup>104</sup> *See id.*

<sup>105</sup> *See Lesson 2, supra* note 84.

<sup>106</sup> *See Interview, supra* note 76. Mr. Miles said that the Thai Department of Justice is currently planning and funding a Thai Marshals Service. *See id.* The new agency's mission and legal authorities will follow exactly those of the United States Marshall's service. *See id.*

<sup>107</sup> *See generally Human Rights in Asia, supra* note 66, at 105-06.

<sup>108</sup> *See id.* at 108.

In Thailand, however, public prosecutors face many problems when addressing human-rights cases, as pointed out by the AHRC.<sup>109</sup> Under the color of law, public prosecutors often work closely with the investigating agencies to assure that cases are derailed, especially cases that implicate state officers.<sup>110</sup>

In the Blue Diamond Affair, after the assigned inquiry team determined that Somkid should not be prosecuted, the public prosecutor issued an order of non-prosecution due to insufficient evidence.<sup>111</sup> The public prosecutor then referred the file to the Director-General of the Royal Thai Police Department in accordance with Article 145, Paragraph 1, of the Criminal Procedure Code, which states,

In case there is an issue of a non-prosecution order other than that of the Director-General of the Public Prosecution Department, if it is in the Nakhorn Luang Krungtep Dhonburi [Bangkok], it is in the...[Bangkok]the file of inquiry together with the order shall forthwith be submitted to the Director-General, Deputy Director-General or Assistant Director-General of the Royal Thai Police Department.<sup>112</sup>

The Director-General then reviewed the case and decided not to dissent from the non-prosecution order of the public prosecutor.<sup>113</sup> Nonetheless, in May 2000, the Board of Special Cases of the Department of Special Investigations (DSI),<sup>114</sup> decided that the murder cases of the Saudi Arabian diplomats and businessmen should be reopened as Special Cases under Article 21, Paragraph 1(2), of the Special Investigation Act B.E. 2547 (1990).<sup>115</sup> In addition, under Article 32, the Act stipulates that the public prosecutor shall participate in the investigation.<sup>116</sup> Subsequently, the public prosecutor decided to prosecute Police General Somkid.<sup>117</sup>

The incidents of the Blue Diamond Affair reflect a well-known contention that exists between the DSI and public prosecutors.<sup>118</sup> In Thailand, it is common practice for public prosecutors to scrutinize the investigative officers' work, decline

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<sup>109</sup> See ASIAN HUMAN RIGHTS COMMISSION, *Thailand: Investigators Cannot Be Allowed to Override Prosecutors*, (June 19, 2007), <http://www.ahrchk.net/statements/mainfile.php/2007statements/1073/> [hereinafter *Override Prosecutors*].

<sup>110</sup> See *id.*

<sup>111</sup> See *Letter*, *supra* note 45.

<sup>112</sup> *Id.*

<sup>113</sup> See *id.*

<sup>114</sup> See *Interview*, *supra* note 76. Mr. Miles explained that the DSI is assigned cases exclusively via the Special Investigation Act of B.E. 2547 (2004) (Thai). See *id.* Under this statute, the Special Case Advisory committee decides which cases are assigned to the DSI. See *id.* DSI predominantly focuses on white collar crime, corruption allegations, investigations of high profile political officers, terrorism, and large scale institutional money laundering. See *id.*

<sup>115</sup> See *id.*

<sup>116</sup> See *id.*

<sup>117</sup> See *id.*

<sup>118</sup> See *Override Prosecutors*, *supra* note 103.

cases, and argue that there is insufficient evidence.<sup>119</sup> Conversely, DSI agents<sup>120</sup> argue that the prosecutors' decision is a disingenuous obstacle to the court.<sup>121</sup> However, it is irrelevant which side is "right." In the end, the conflict between these law enforcement entities undermines the role of prosecution and thwarts its purpose of ensuring justice. Similarly, justice is further compromised when corruption by officials is not only tolerated but also promoted.

#### *D. Promotion of Corrupt State Agents*

As explained earlier, the Blue Diamond Affair seemed to be making progress when, in January 2010, the Attorney General indicted senior policeman Somkid and four other policemen for the disappearance of Saudi-Arabian businessman Mohammad al-Ruwaili.<sup>122</sup> Sadly, this brief moment of hope was cut short in late September 2010 when Thai government officials announced that Somkid, despite his recent indictment, had been promoted to the post of assistant national police chief.<sup>123</sup> To be expected, the Saudi Embassy in Bangkok responded with outrage and disappointment.<sup>124</sup>

The Saudi Embassy issued a press release in which it questioned if the promotion was granted in accordance with Thai law.<sup>125</sup> The embassy cited Article 95 of the Thai National Police Act 2547 B.E., which declares that any police officer who is alleged of or charged with breaching severe discipline or committing a criminal act will be ordered to quit his post until the completion of the legal proceedings.<sup>126</sup> The press release noted the embassy's astonishment that, despite the clear purpose and objective of Article 95, the Thai government has not shown any intention of taking disciplinary action against the police officers.<sup>127</sup> The embassy further expressed concerns that the high-ranking officer accused in the case was promoted to a position that may affect the course of legal proceedings against him.<sup>128</sup> Consequently, the embassy warned that the promotion might seriously jeopardize the restoration of bilateral relations between the countries.<sup>129</sup>

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<sup>119</sup> *See id.*

<sup>120</sup> *Interview*, *supra* note 76. Mr. Miles explained that the DSI is considered more professional and less corrupt than the Royal Thai Police. *See id.* DSI has about 300 specialized investigators and is currently expanding to nearly 500 specialized investigators. *See id.* DSI's screening and hiring process is also more rigorous and competitive than the police forces' application and hiring process. *See id.*

<sup>121</sup> *See Override Prosecutors*, *supra* note 103.

<sup>122</sup> *See Marshall*, *supra* note 10.

<sup>123</sup> *See id.*

<sup>124</sup> *See id.*

<sup>125</sup> *See* Press Release, Royal Embassy of the Kingdom of Saudi Arabia Bangkok, Thailand, Response to Gen. Somkid Boonthanom's Recent Promotion (Sept. 3, 2010) (<http://www.mofa.gov.sa/Detail.asp?InNewsItemID=113946>) [hereinafter *Embassy's Response*].

<sup>126</sup> *See id.*

<sup>127</sup> *Id.*

<sup>128</sup> *Id.*

<sup>129</sup> *See id.*

A few days later, the Saudi Embassy issued a follow up press release.<sup>130</sup> The embassy emphasized that while the Saudi government did not intend to meddle in Thailand's internal affairs, the Saudi Embassy would monitor the progress of the investigations by the Thai authorities to uncover the mysteries that surround the 20-year-old cases.<sup>131</sup> The letter emphasized Saudi Arabia's hope that "witness transparency, justice, and non-interference"<sup>132</sup> will be applied to the cases that directly concern the Kingdom of Saudi Arabia.<sup>133</sup>

In a failed attempt to ease suspicion and turmoil, Deputy Prime Minister Suthep Thaugsuban (PM Suthep) issued an explanation of the recent promotion.<sup>134</sup> PM Suthep explained that because the Royal Thai Police Department had ceased all disciplinary proceedings in November 1998, Royal Thai Police could no longer conduct disciplinary proceedings against Somkid.<sup>135</sup> Specifically, because the investigation occurred before the Royal Thai Police Act B.E. 2547 (2004) was enacted, the matter fell in line with Article 6 of the Absolution Act B.E. (2007) (Absolution Act).<sup>136</sup> The Absolution Act states, "persons subjected to disciplinary action where his or her superior officials ordered the termination of the case or the commutation of sentence on or before the 5th December B.E. 2550 (2007) shall not be further imposed additional punishment or disciplinary action against them on that particular case."<sup>137</sup> Consequently, PM Suthep explained that the Royal Thai Police could no longer conduct disciplinary proceedings against Somkid since he was investigated and punished before the Absolution Act's passing in 2007.<sup>138</sup>

In response, Mr. Nabil Ashir, the current chargé d'affaires of the Saudi Embassy in Bangkok, said, "[e]very time I meet a Thai official, a different article of law or law or set of laws is mentioned to me . . . ." <sup>139</sup> Mr. Ashri further noted, "the purpose of the laws, regulations, and the constitution is to benefit the general public and not a certain individual."<sup>140</sup> He reiterated that the Saudi government is not aiming to interfere with the Thai government; however, he asked for empathy for Saudi Arabia's frustration, stating, "this particular case [of Mr. Al-Ruwaili] had been classified as a special case according to the Thai justice system, so far we have seen nothing special about it . . . ." <sup>141</sup>

Whether due to public pressure or his own good conscience, Somkid declined to accept his appointment as Assistant National Police Chief in order to

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<sup>130</sup> See *Embassy's Response*, *supra* note 125.

<sup>131</sup> See *id.*

<sup>132</sup> *Id.*

<sup>133</sup> See *id.*

<sup>134</sup> See *Letter*, *supra* note 45.

<sup>135</sup> See *id.*

<sup>136</sup> See *id.*

<sup>137</sup> *Id.*

<sup>138</sup> See *id.*

<sup>139</sup> *Embassy's Response*, *supra* note 125.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

defuse the tension between the two countries.<sup>142</sup> However, not even a week after his decline, Somkid was offered and accepted a promotion to be the Police Inspector-General.<sup>143</sup>

It is unclear why Thailand, a country infamous for its corrupt police force<sup>144</sup> would pass legislation like the Absolution Act,<sup>145</sup> which essentially clears police conduct which occurred pre-2007. At its core, the Absolution Act functions as a "get out of jail free" card, which conveniently benefited Somkid. Though Somkid is currently under a Special Case Investigation and is indicted for murder,<sup>146</sup> the police disciplinary immunity under the Absolution Act allows him to not only maintain employment as a police officer, but also be considered for a highly revered promotion.<sup>147</sup> Furthermore, it is perplexing why a nation would grant a substantial promotion to a police officer who is currently charged with murdering a foreign nation's diplomatic envoy.<sup>148</sup> However, in Thailand, corruption is so deeply rooted within the government that the most sensational crimes frequently involve the Thai police as prime suspects.<sup>149</sup> Hence, while the quantifiable repercussions of Thailand's inner-government corruption can be identified, the remedies for the government's misconduct are not as easily ascertained.

The next section will explore a few of the remedial measures in place, which aim to turn Thailand's criminal investigation and prosecution regime from a haphazard system of order-enforcement to an effectual system of law enforcement.<sup>150</sup> Analyzed reform efforts include law enforcement training facilitated by the International Law Enforcement Academy in Bangkok, Thailand; political corruption investigations conducted by the Thai government's Public Anti-Corruption Commission; and the impact and social utility of Thailand's private sector.

### III. REMEDIAL MEASURES TO COMBAT CORRUPTION WITHIN THE ROYAL THAI POLICE FORCE

#### *A. International Law Enforcement Academy, Bangkok, Thailand*

Although recent strides in technology have made the world smaller, the same technological advancements have allowed international crime to emerge stronger than ever. Organized crime operations colonize in countries with weak governments and developing economies. To combat this new era of widespread international

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<sup>142</sup> See *Pol Lt Gen Somkid Named as Inspector-General*, THAI PRESS REPORTS, Sept. 27, 2010, available at A2010092425-214A9-GNW (LEXIS). Somkid became Inspector-General as of Oct. 1, 2010.

<sup>143</sup> See *id.*

<sup>144</sup> See *A Law Unto Themselves*, *supra* note 3.

<sup>145</sup> See *Embassy's Response*, *supra* note 125.

<sup>146</sup> See Marshall, *supra* note 10.

<sup>147</sup> See *Letter*, *supra* note 45.

<sup>148</sup> See Marshall, *supra* note 10.

<sup>149</sup> See *A Law Unto Themselves*, *supra* note 3.

<sup>150</sup> See *Human Rights in Asia*, *supra* note 66, at 7.

crime, the United States developed a training agency, which seeks to train and empower law enforcement officers with little to no experience, to organize law enforcement units which operate efficiently, and to secure social order and protect human rights.<sup>151</sup> The U.S. State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) chair the International Law Enforcement Academy (ILEA).<sup>152</sup> INL, along with law enforcement representatives from the State Department, Department of Justice, Department of Homeland Security, and the United States Treasury, select ILEA's targeted countries or areas of interest.<sup>153</sup> Along with promoting law enforcement cooperation between the United States and targeted foreign nation, the Academy aims to: (1) provide professional law enforcement training specifically tailored to meet the needs of the region; and (2) facilitate professional law enforcement relationships among participants, both internally and across international borders.<sup>154</sup> ILEA's main areas of interest include narcotics, terrorism, and transnational crime.<sup>155</sup> ILEA focuses on operational training, such as criminal investigation strategies and current technology for evidence forensics.<sup>156</sup>

Through ILEA's work in Thailand, the level of professionalism has improved significantly in the Royal Thai Police Force.<sup>157</sup> In light of this recent success, ILEA is considering creating and sponsoring courses that focus on combating corruption.<sup>158</sup> However, because corruption is woven so intricately throughout the police force, ILEA is quite aware that it will take years, if ever, to reform the "corporate culture" of patronage and corruption.<sup>159</sup>

Bryce Miles, Deputy Director of ILEA, Bangkok, explains that, "[c]orruption is just the way [the Royal Thai Police Force] [does] business."<sup>160</sup> Mr. Miles explains that though the police force, in general, is professional and cooperates well with ILEA, its ethos is, "[w]hat is in it for us? Can we make a profit?"<sup>161</sup> For example, if a Thai police officer stops a citizen for an illegal turn, and the citizen asks to immediately pay the fine, the police officer will personally pocket the money, and the matter will be settled without citation, record, or court appearance.<sup>162</sup> These occurrences result in widespread distrust of the police.<sup>163</sup> The relationship between the Thai citizen and Thai police officer cannot be defined as antagonistic, but instead as apathetic, understanding that "this is the way they [Royal Thai Police Force officers] are."<sup>164</sup>

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<sup>151</sup> See *Interview*, *supra* note 76.

<sup>152</sup> See *id.*

<sup>153</sup> See *id.*

<sup>154</sup> See *id.*

<sup>155</sup> See *id.*

<sup>156</sup> *Interview*, *supra* note 76.

<sup>157</sup> See *id.*

<sup>158</sup> See *id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> *Interview*, *supra* note 76.

<sup>162</sup> See *id.*

<sup>163</sup> See *id.*

<sup>164</sup> *Id.*



Despite the citizens' apathy towards the rampant corruption within the police force, both Thai citizens and the Thai government are concerned about the negative media attention, especially press articles that may have a damaging effect on Thailand's tourist industry, an important component of the country's economy.<sup>165</sup> Such concerns are the impetus behind the Thai government's recent efforts to combat corruption, including the establishment of the Public Anti-Corruption Commission.<sup>166</sup>

### B. Public Anti-Corruption Commission

Thailand's current prime minister, Abhisit Vejjajiva, recently addressed the Fourteenth Annual International Corruption Conference in Bangkok.<sup>167</sup> In his speech, the prime minister said:

The fight against corruption is a moral one and cannot be won by legislation alone. We can have the best anti-corruption laws and strictest enforcement in place, but if large sections of the population remain persistently indifferent and apathetic about corruption, I'm afraid we will continue to face an uphill battle. Let us be reminded of these words of wisdom — “the accomplice to the crime of corruption is frequently our own indifference”.<sup>168</sup>

The prime minister is right; apathy is a significant obstacle to any reform movement. Recently, sixty-five percent of Thai citizens believe the government's efforts against corruption are “ineffective,” according to a Transparency International poll.<sup>169</sup> The Thai people's negative view is reflective of the National Counter Corruption Commission (NCCC); the NCCC is the main coordinator of all anti-corruption efforts and agencies in Thailand and currently filters all corruption complaints.<sup>170</sup> Unfortunately, even the NCCC has been disgraced with charges of corruption, resulting in the termination of several commissioners for increasing their own salaries in 2004.<sup>171</sup>

However, most recently, Thailand proposed the pioneering Public Anti-Corruption Commission (PACC).<sup>172</sup> The Commission plans to post 2,000

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<sup>165</sup> See *id.*

<sup>166</sup> See *infra* pp. 23.

<sup>167</sup> See Abhisit Vejjajiva, Prime Minister, Kingdom of Thailand, Keynote Speech at the International Anti-Corruption Conference: Momentum for Change: Take Action Against Corruption (Nov. 10, 2010), <http://media.thaigov.go.th/pageconfig/viewcontent/viewcontent1e.asp?pageid=472&directory=1942&contents=51144> [hereinafter *Keynote Speech*].

<sup>168</sup> See *id.*

<sup>169</sup> Patrick Winn, *What's Thai for Chicago-style Politics?*, GLOBAL POST, Nov. 24, 2009, <http://www.globalpost.com/dispatch/thailand/091119/thailands-anti-corruption-war-pressess?page=0,0>.

<sup>170</sup> See *id.*

<sup>171</sup> See *id.*

<sup>172</sup> See *id.*

government-paid investigators to monitor and respond to allegations of corruption throughout the country.<sup>173</sup>

Philip Guentert, a United States federal prosecutor detailed to the United States Embassy in Bangkok believes that, “[t]he [anti-corruption commission] is really the best bet to deal with [the] lowest levels of police corruption.”<sup>174</sup> Guentert is helping to train the investigators on how to build anti-corruption cases. He is, however, quite aware that he and the commission face a long road to redemption.<sup>175</sup> The challenge lies in the corruption’s inherent sneakiness, such as everyday bribe requests from street cops.<sup>176</sup> Reform will come from the bottom up to rid the nation of the “pettiest and most visible bribery”<sup>177</sup> and reverse Thailand’s “bad” image.<sup>178</sup> By researching more citizens’ allegations and developing more investigations in provinces where federal oversight is lacking,<sup>179</sup> the PACC intends to attack and address these instances of petty, but prevalent, demonstrations of corruption by Royal Thai policemen and low-level government officials.<sup>180</sup>

To date, the PACC has undertaken different investigations seeking to suppress graft and implement an anti-corruption agenda. Specifically, the PACC joined efforts with the DSI to crackdown on backstreet lending, which has inundated low-income borrowers with insurmountable debt.<sup>181</sup> The PACC has also taken efforts to ensure transparency in flood relief spending.<sup>182</sup> In 2010, floods devastated thirty-eight provinces, claiming ninety-four lives.<sup>183</sup> The PACC worked to ensure that the required funds were properly used as emergency assistance for flood victims.<sup>184</sup> The PACC has also investigated suspicious issuing of land title deeds.<sup>185</sup> For example, a PACC investigator discovered that land officially given to local farmers under a government agricultural reform project was actually used to build a

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<sup>173</sup> *See id.*

<sup>174</sup> Winn, *supra* note 169. While in the United States, Guentert built corruption cases against Chicago politicians, including former Illinois Gov. Rod Blagojevich. *See id.* Guentert now advises anti-graft cases in Asia. *See id.*

<sup>175</sup> *See id.*

<sup>176</sup> *See id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *See* Winn, *supra* note 169.

<sup>180</sup> *See id.*

<sup>181</sup> *See Loan Sharks Face Govt Crackdown Three Crime-Fighting Agencies Join Forces*, BANGKOK POST, Feb. 2, 2010, <http://www.bangkokpost.com/news/local/32807/loan-sharks-face-govt-crackdown>.

<sup>182</sup> *See Graft Agency Checks Flood Cash PACC Teams Will Head to Ravaged Provinces*, BANGKOK POST, Oct. 30, 2010, <http://www.bangkokpost.com/news/local/203921/graft-agency-checks-flood-cash>.

<sup>183</sup> *See id.*

<sup>184</sup> *See id.*

<sup>185</sup> *See PACC Uncovers Flood Relief Graft, Plus Illegal ID-Cards*, NATION (BANGKOK), Jan. 4, 2011, <http://www.nationmultimedia.com/2011/01/04/national/PACC-uncovers-flood-relief-graft-plus-illegal-ID-c-30145633.html>. The PACC is also investigating allegations that Thai identity cards have been issued to known drug dealers.

golf course.<sup>186</sup> Such efforts demonstrate that though the PACC is in its formative period, its potential is promising.

Encouraging citizens to report instances of corruption is a significant leap forward towards successful corruption reform. A cultural and societal revolution requires not only legislation and government, but also the desire and cooperation of an entire society, beginning with the private sector.<sup>187</sup> Prime Minister Abhisit Vejjajiva urges,

Businesses are both perpetrators and victims of corruption. In spite of an increasingly stringent legal framework, corruption remains a challenge for companies in many parts of the world. Indeed, there is little incentive for an individual company to take an anti-corruption stance in a disconnected business world. Responsible enterprises that take a zero tolerance stance on bribery and corruption find it very challenging to live up to this commitment in countries or industries where bribery is pervasive and extortion is a routine occurrence. There is thus greater need than ever for a clear demonstration of ethical business leadership.<sup>188</sup>

Along with government-implemented reform, there are calls for action from the private sector, including the Thai Institute of Directors, to help restore government credibility and dependability.

### *C. Private Sector's Role in Corruption Reform in Thailand*

Corruption in Thailand not only affects the government and its citizens, but also has a negative impact on the country's economy.<sup>189</sup> However, unlike other developing countries, the private sector has not always been the source of corruption in Thailand.<sup>190</sup> In fact, in Thailand, the private sector plays opposing roles as both victim and benefactor of corruption.<sup>191</sup> Nonetheless, pressing the private sector to take a leading role in combating corruption is crucial in Thailand, where political turmoil has led to many shifts in power and policies over the past century.<sup>192</sup> In essence, the private sector can continue to drive the anti-corruption campaign, in conjunction with government agencies, in times when political debate can stall reforms.<sup>193</sup> Under the strategy of "Collective Action Against Corruption,"<sup>194</sup> the private sector has begun efforts against corruption, drawing the joint forces of

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<sup>186</sup> *See id.*

<sup>187</sup> *See Keynote Speech, supra* note 167.

<sup>188</sup> *See id.*

<sup>189</sup> *See Fighting Corruption in Thailand: Help Wanted From the Private Sector*, NATION (BANGKOK), Sept. 29, 2010, <http://www.nationmultimedia.com/home/2010/09/29/opinion/Fighting-corruption-in-Thailand-help-wanted-from-t-30138915.html>.

<sup>190</sup> *See id.*

<sup>191</sup> *See id.*

<sup>192</sup> *See id.*

<sup>193</sup> *See id.*

<sup>194</sup> *Keynote Speech, supra* note 167.

companies, governments, and civil society organizations to promote transparency in business.

One such effort is the Thai Institute of Directors (IOD).<sup>195</sup> IOD is a not-for-profit, membership organization, established with assistance from Thailand capital market institutions such as the U.S. (?) Securities and Exchange Commission, The Stock Exchange of Thailand, The Bank of Thailand, and the Foundation for Capital Market Development Fund, as well as international organizations such as the World Bank.<sup>196</sup> IOD's main mission is to improve professionalism and corporate governance among directors of Thai businesses.<sup>197</sup>

IOD was established in 1999, and since its inception, IOD has been at the forefront of promoting good governance practices in Thai companies.<sup>198</sup> IOD's ideology is that effective directors produce well operated companies, which in turn benefit shareholder value and sustainable growth of the Thai economy.<sup>199</sup> To accomplish its goal, IOD conducts several key courses, which teach managing skills and knowledge of good corporate governance essential for board members to improve and develop their companies.<sup>200</sup> Additionally, IOD keeps its seminars "current," consistently updating course content concerning the most recent issues in corporate governance.<sup>201</sup>

Similar to ILEA and the PACC, IOD is an example of another innovative reform measure in Thailand. Each of the three remedial measures attempts to curtail corruption at its root. ILEA targets unprincipled law enforcement,<sup>202</sup> PACC focuses on crooked government actions,<sup>203</sup> and IOD aims at unethical business practices.<sup>204</sup> These initiatives are three examples of developing strategies in the ongoing campaign against corruption in Thailand.

#### IV. CONCLUSION

In Thailand, corruption occurs at all levels, implicating both the public and private sectors. The universal misconduct in turn affects all classes of citizens, including government officials, businesspersons, and ordinary citizens both at home and abroad.

The Blue Diamond Affair accurately depicts the pervasiveness of corruption in Thailand. The Blue Diamond Affair's web entangles an extensive class of citizens,

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<sup>195</sup> See THAI INSTITUTE OF DIRECTORS, <http://www.thai-iod.com/en/index.asp> (last visited Jan. 20, 2011) [hereinafter THAI INSTITUTE OF DIRECTOR].

<sup>196</sup> See *id.*

<sup>197</sup> See *id.*

<sup>198</sup> See *id.*

<sup>199</sup> See *id.*

<sup>200</sup> See THAI INSTITUTE OF DIRECTORS, *supra* note 195.

<sup>201</sup> See *id.*

<sup>202</sup> See *Interview*, *supra* note 161.

<sup>203</sup> See Winn, *supra* note 169.

<sup>204</sup> See THAI INSTITUTE OF DIRECTORS, *supra* note 195.

ranging from Saudi royalty to Thai migrant workers. The jewelry heist not only affected the crime's players and investigators, but also has disturbed the lives of innocent bystanders.

The events and aftermath of the Blue Diamond Affair suggest that a significant vulnerability of Thai civil society is the Royal Thai Police Force's statutes and regulations. Current protocol of the Royal Thai Police Force nurtures the practice of torture, undermines the importance of witness protection, compromises the role of prosecutors, and promotes corrupt state agents. Thailand's economic and diplomatic development is inhibited by the continuation of these practices, as demonstrated most critically by its inability to renew diplomatic relations with Saudi Arabia.

When such problems exist and corruption is so embedded within a society, remedial reform requires a nationwide cooperative effort to rid the country of the societal epidemic. Prime Minister Abhisit Vejjajiva explained it best, urging "the need for greater cooperation with civil society. As a direct beneficiary of any effective anti-corruption program, civil society has always been a main driving force in raising awareness of corruption and its harmful effects."<sup>205</sup>

Accordingly, Thai civil society has begun to take the proper steps for the necessary overhaul and revitalized agenda for the Republic of Thailand. The reform measures in place encompass a wide range of contributors, each providing skills, expertise and fresh perspectives. Remedial programs include ILEA, which provides law enforcement and criminal investigation expertise; the PACC, which encourages citizen involvement in the effort to intercept and deter corrupt practices of the Thai government; and the IOD, which provides the collaborative effort of industry leaders to combat the prevalence of corruption and unethical business practices.

To succeed, Thailand must continue collaborative efforts to empower each citizen as an official mouthpiece for the subjugated and as a recognized whistleblower against the corrupt. Citizen-centric empowerment can be reached through a strong alliance of government officials, law enforcement officers, business people, and motivated citizens of Thailand. Thailand requires an all-encompassing proactive campaign for change to transform Thailand's overall apathetic acceptance of corruption into a universal determined drive for reform and reconstruction. Such a unified effort will lead Thailand to a more promising future; a future free from unanswered instances of corruption, as witnessed in the unsolved case of the Blue Diamond Affair.

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<sup>205</sup> *Keynote Speech, supra* note 167.